

Guidance for the Completion of Net Pensionable Earnings Declaration for Providers

Part of the 2015/16 Annual Reconciliation report

Gateway Reference: 03/NHSBSA/dental/03/16

The enclosed 2015/16 end of year annual reconciliation report contains an estimate of the net pensionable earnings or equivalent for every performer on the contractor's GDS/PDS contract.

The 2015/16 annual reconciliation report (ARR) has been produced in accordance with the Statement of Financial Entitlements. NHS Dental Services have made annual reconciliation reports available to contract holders and performers on behalf of health bodies.

What to do now

You are required by law,

- a) to identify those of your performers who are partners in, or directors of, the contractor and
- b) to confirm the amount of seniority payments, maternity leave payments, paternity leave payments, adoption leave payments or sickness leave payments paid under your contract or agreement.

You are also required to declare the actual net pensionable earnings earned within the contract by every performer in the period 1 April 2015 to 31 March 2016.

For a number of reasons including some shown in the questions below, the estimated net pensionable pay stated on the ARR may not be correct. **If the estimated pay is correct you should agree the figures in conjunction with your performers and submit the record by 30 June 2016. If you haven't logged into Compass yet please do so.**

What to do next:-

Step 1

Calculate 43.9% of the GDS/PDS contract value. This identifies the 'pensionable earnings ceiling'; i.e. the maximum pensionable (superannuable) pay available for distribution to all dentists at the Practice.

If the Practice contract value subsequently rises through agreed over performance or contract adjustment or falls through under performance claw back then this original calculation will need to be reworked when the changes to the contract value are agreed.

Step 2

Identify any dentists at the Practice who are not members of the NHS Pension Scheme (NHSPS) such as:

- dentists in receipt of their NHS pension

- dentists who have opted out of the NHSPS
- associates who are incorporated and who cannot 'pension' their net income with effect from the 7 November 2011.

Any net NHS income attributable to these dentists forms part of the 'pensionable earnings ceiling'. It is unlawful to allocate the NHS income of non-members of the NHSPS to any other dentist.

Step 3

Sole-Trader or Partnership

Allocate the pensionable income to dentists at the Practice as follows.

1. Identify the pensionable earnings ceiling.
2. Declare the pensionable pay of any Associates; this is their actual net GDS or PDS income.
3. Take account of the net GDS or PDS income of any non-pensionable dentists (Partners or Associates).
4. The remaining balance is the amount that the Sole Trader or Partners could 'pension'.
5. In the case of a Partnership the remaining pensionable pay (the balance) can be allocated between the Partners as per the Partnership agreement.
6. By virtue of non-pensionable dentists working in a Practice the total pensionable income declared may not reach the 43.9% ceiling.

Limited Company

Allocate the pensionable income to dentists at the Practice as follows.

1. Identify the pensionable earnings ceiling.
2. Declare the pensionable pay of the Associates; this is their actual net GDS or PDS income.
3. Take account of the net GDS or PDS income of any non-pensionable dentists (Shareholders or Associates).
4. The remaining balance is the amount that the dentist Shareholders (who are active NHSPS members) may 'pension' however they can only 'pension' the income they actually take in the form of salary and dividends; any income that is not taken and left in the company is not pensionable.
5. By virtue of any non-pensionable dentists and income retained in the company the total pensionable income declared by a limited company Practice may not reach the 43.9% ceiling.
6. Where a limited company Practice has mixed dental income (i.e. NHS and private) there is no need to apportion salary/dividends between NHS and private income for NHSPS purposes. All salary/dividends paid, up to the ceiling, are available for allocation as NHS pensionable income.
7. If salary/dividends paid by a limited company Practice do not reach the maximum available in any pensions year then the shortfall is lost. The shortfall cannot be carried forward to the next pensions year or allocated to any other dentist at the Practice.

Step 4

You should agree the figures supplied with your performers as they must complete their own declaration with effect from 1 April 2015 - 31 March 2016 to comply with the NHS Pension Regulations.

Log into your dental portal account and agree the figures in conjunction with your performers and submit the record by 30 June 2016.

Please encourage your performers to log into Compass and agree their figures in conjunction with you, remembering submission must be completed by 30 June 2016.

Your questions answered

Why do I have to complete this declaration?

We need to know all the details shown on the declaration and for pension purposes the actual net pensionable earnings earned by every performer in the period 1 April 2015 – 31 March 2016. We can then ensure they have correct contributions paid into their pensions and that the maximum allowable net pensionable pay for the contract has not been exceeded. The yearly earnings estimate that was notified to the health bodies for your performer(s) and shown was only an estimate and the amount each performer has actually earned may have been different during this period. We also would like you to make sure that any non pensionable performers, i.e. not in the NHS Pension scheme, pay has been taken into account in your calculations in order to ensure the maximum allowable net pensionable pay for the contract has not been exceeded.

Why do I have to make the declaration?

It is a contractual requirement to complete this declaration and is detailed in the Statement of Financial Entitlement. It is also a statutory requirement under The NHS Pension Scheme Regulations.

Why do you need to know who the partners and directors/shareholders of the contractor are?

It is a legal requirement under the NHS Pension Scheme Regulations.

What happens if I do not complete the declaration by 30 June 2016?

There is a statutory obligation to complete the declaration and you must do so even if there are no changes. If your return is late or not received at all it may result in a zero pensionable pay return being notified to NHS Pensions for all dentists on the declaration even though contributions have been paid.

What percentage can be considered as pensionable earnings under the contract that must not be exceeded?

The total pensionable income generated by a GDS/PDS dental practice cannot exceed 43.9% of your contract value.

What is expected from my performers?

The NHS Pension changes in November 2013 included the requirement for performers to make a declaration of their NPE each year. So your performers are expected to log into Compass and agree the NPE amount entered. If they do not agree you will be notified by email of why. You are then required to speak to your performer and agree the final figure.

Can a Provider (i.e. the Partner) 'pension' income for themselves in respect of their colleagues?

No. It is illegal for a NHS dentist (or any other scheme member) to credit themselves, for NHS pension purposes, with NHS income from another colleague even if that colleague has opted out of the NHSPS. For example if an associate's NHS pay is £40k, however, they opt out of NHSPS the senior partner(s) cannot increase their declared pensionable pay by £40k. We also need to know any non pensionable performers, i.e. not in the NHS Pension scheme, in order to ensure the maximum allowable net pensionable pay for the contract has not been exceeded.

What figures does the 2015/16 estimate of NPE include?

The estimated NPE figure provided uses the estimated earnings figure of each performer entered on the Payments Online system for 2015/16 by the AT/HB and is the total of the payments scheduled by NHS Dental Services on the April 2015 to March 2016 inclusive schedule runs. You should check the figures and if your actual figures are different insert the correct net pensionable earnings earned for each performer for the period 1 April 2015 to 31 March 2016.

Why have you not included details of additional payments in the annual reconciliation report?

We are not required to provide this information in the annual reconciliation report.

What happens if a performer left and I forgot to inform the health body?

We need to know precisely the net pensionable earnings earned by each performer in the period 1 April 2015 to 31 March 2016 so if a performer left but contributions continued to be taken for that performer, the health body and you may need a refund of the contributions paid on that money. Please therefore enter the figure for the period up to when the performer left.

What happens if I paid my performer more than the amount I notified to the health body?

We need to know precisely the net pensionable earnings earned by each performer in the period 1 April 2015 to 31 March 2016 so the correct figure should be entered. When this is processed, the additional contributions will need to be deducted from you and the health body in order that the pension for the performer is correct.

What happens if I paid maternity or long-term sickness to my performer, should I include it?

The actual net pensionable earnings must not include any of these items. The figure we require is the net pensionable earnings earned for each performer in the period 1 April 2015 to 31 March 2016. Additional adjustment items should not be included.

What happens if I have had negative schedules during the 2015/16 year?

Superannuation calculations are based on the estimates of net pensionable earnings entered on Compass. Once the negative amount is cleared all superannuation contributions will be taken. The net pensionable earnings earned figure you declare will be used to calculate the 2015/16 contributions in July 2016. These will show on the July 2016 schedule paid on 1 August 2016 unless the contract is in negative in July 2016 in which case the calculations will show on your next positive schedule.

What happens if I have had a performance adjustment situation in year 2015/16?

Once the performance adjustment has been processed you must complete a new declaration (ARR) for whichever year the performance adjustment was for as it may have been for previous years. This is because the total contract value will have been altered therefore changing the pensionable earnings limit for the practice.

What happens if I forgot to inform the health body of a performer who was working under my contract?

You should contact the health body to inform them and then complete the declaration with the performer's name and the net pensionable earnings earned in the period 1 April 2015 to 31 March 2016.

What happens if my performer works at another practice for another provider?

Both providers will complete a separate declaration in respect of net pensionable earnings for the performer.

What happens if my performer is a re-employed practitioner i.e. retired and come back?

The performer will be shown on the report with a zero value and as they are already in receipt of a pension no further contributions can be made. However, their net pensionable earnings equivalent must be included in the 43.9% ceiling.

What happens if my performer is a re-employed dentist who retired on ill health and under 50?

The performer is entitled to make further contributions if they wish to do so.

Do I need to notify you of any superannuation deductions I have taken from the performer?

No, we need to know the net pensionable earnings earned in the period 1 April 2015 to 31 March 2016 only.

If my performer retired part way through the year, what do I enter onto the declaration?

You need to confirm that the net pensionable earnings earned by the performer up until their retirement is as shown on the declaration, or enter the revised correct figure.

When will I know whether I have to pay any more contributions for my performer(s)?

You must ensure we have the completed declaration by 30 June 2016 at the latest. We intend to process all adjustments on the July 2016 schedule, paid August 2016. Any additional or refunded contributions will be shown on that schedule.

How will each individual performer on my contract be informed of their final position for 2015/16 contributions to be paid over to NHS Pensions?

Any adjustments required as a result of your declaration will be carried out in July 2016. All adjustments will show on the July 2016 schedule paid 1 August 2016 Following the conclusion of this exercise the annual SD86C superannuation form will be provided online to all scheme members.

What happens if I have performers (i.e. associates) who have incorporated (i.e. set themselves up as a limited company)?

If a Performer incorporates (i.e. an associate sets themselves up as a limited company) they cannot be a member of the NHS Pension Scheme. This is because the NHS Pension Scheme Regulations do not permit this.

NHS Pensions has offered the following explanation:-

“Whilst it is permitted for a GDS (or PDS Contractor) to incorporate and for the Providers (i.e. General Dental Practitioner shareholders) to remain in the NHS Pension Scheme there are no provisions for a Performer (i.e. Associate) to remain in the Scheme if they set themselves up as a limited company or similar.

When the Associate incorporates the contractual arrangements change in pension terms. The GDS (or PDS) Contractor sub-contracts with a company, rather than contracts with an individual, and the company sends the Associate to perform the work. Under The NHS Pension Scheme Regulations the limited company created by the Associate is not recognised as a type 1 Dental Practitioner.”

What happens if I have performers (i.e. associates) who incorporated (i.e. set themselves up as a limited company) but didn't realise this would have an impact on their pension.?

There was a deadline which was the subject of Parliamentary approval that stated that an incorporated Associate (i.e. a limited company Associate) could not be a member of the Scheme with effect from the 7 November 2011. Associates who wished to remain Scheme members were advised to put arrangements in place by that date to ensure they could comply.

It meant that their previous Scheme membership remained intact and that they were not eligible for a refund of contributions.

Anyone who elected to remain incorporated would not be allowed to accrue future Scheme membership from that date.

More information

For more information go to www.nhsbsa.nhs.uk/AskUs or go to www.nhsbsa.nhs.uk/dental or visit the NHS Pensions website www.nhsbsa.nhs.uk/pensions